

**Genevieve Morelli**  
Executive Vice President  
& General Counsel

ORIGINAL

April 30, 1997

William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M St., N.W.  
Room 222  
Washington, D.C. 20554

EX PARTE OR LATE FILED

Re: CC Docket No. 96-262  
Ex Parte Communication

RECEIVED  
APR 30 1997  
Federal Communications Commission  
Office of Secretary

Dear Mr. Caton:

On April 29, 1997, Joseph Gillan, representing the Competitive Telecommunications Association ("CompTel"), had a telephone conversation with Dan Gonzalez of Commissioner Chong's office to discuss issues relating to the rate structure for tandem-switched transport. The attached document was discussed during the call and faxed to Dan Gonzalez.

Please address any questions concerning this letter to the undersigned.

Sincerely,

*Genevieve Morelli*  
Genevieve Morelli

cc: Dan Gonzalez

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**Reasons Why the Unitary Rate Structure Option  
for Switched Transport Should Be Made Permanent**

The unitary transport option mirrors the approach used for dedicated transport: transport is provided between two network points (the serving wire center and the destination end-office) at charges that are indifferent to the LEC's physical routing and network design decisions in between. The unitary transport option should be made a permanent feature of the Commission's access charge rules.

**1. LEC Network Design Autonomy**

The unitary option requires that a tandem-switched transport user pay a rate for using the tandem, but it does not hold the transport customer responsible for the number and location of LEC access tandems. If the Commission were to use the tandem location as a mandatory rating point for tandem-switched transport customers -- which is the practical effect of the partitioned rate structure -- a number of problems result. First, similar network points for dedicated transport users (i.e., locations where transmission facilities are multiplexed, but not switched) would have to be introduced to avoid unlawful discrimination.<sup>1</sup> Second, tandem locations would need to become part of the access tariff and access customers would seek tandem decommissioning in LATAs with multiple tandems and challenge the deployment of any new tandems proposed by the LEC.

**2. TELRIC Standard**

The Commission has adopted TELRIC as an appropriate costing standard. Under the methodology adopted by the Commission, TELRIC analysis begins with the basic network footprint of existing wire-centers, but then populates that footprint with the most efficient investment. A properly conducted TELRIC methodology, therefore, does not assume that the existing deployment of tandem investment is appropriate. It would be inconsistent for the Commission to embrace TELRIC principles while adopting a rate structure that is defined by an embedded architecture. In fact, with today's ring architectures and dynamically routed networks, any approach based on a hierarchical transport network is becoming increasingly archaic. Forward-looking regulation, like forward-looking costing, must consider the network topology of the future and not the past.

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<sup>1</sup> Dedicated transport frequently uses the identical transmission facilities and physical routings through the tandem location as tandem switched transport.

**3. Cost Justification**

After the FCC's local transport restructure, most RBOCs modified their intrastate tariffs to mirror the interstate tariff, including the unitary rate structure. In a number of these proceedings, the Interexchange Access Coalition (comprised of CompTel members) challenged the underlying cost justification for the proposed rates. These proceedings were aided by discovery rules that required the RBOCs to produce cost studies to support their proposed prices. These studies, typically based on economic TELRIC-like analysis, demonstrated that the prices for tandem switched transport exceeded the underlying cost and, in most cases, exceeded underlying cost by an amount greater than the RBOCs proposed prices for dedicated transport exceeded their cost.<sup>2</sup> There is no factual basis to a claim that the unitary rate option yields below-cost tandem switched transport rates.

**4. Network Reconfiguration Waiver**

When the FCC introduced the new local transport rate structure, it provided carriers a waiver of non-recurring charges to reoptimize their transport arrangements. Because the new rate structure made dedicated circuits more attractive, and dedicated transport is a viable option mostly for larger carriers, this waiver policy disproportionately favored large IXC's. If the Commission eliminates the unitary transport option, then a similar reconfiguration window must be offered to smaller carriers.

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<sup>2</sup> This rate relationships provided the foundation for a complaint with the Department of Justice that BellSouth was violating the MFJ's prohibition against discrimination in the rates charges interexchange carriers for access. The DOJ deferred ruling on this complaint, noting that the FCC was scheduled to readdress its transport pricing policies.